

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3947/2dn

JTK:cx:pg

January 25, 2006

Robert Conlin:

This redraft implements the instructions in your memo to Senator Leibham dated January 18, 2006. With respect to some remaining questions that I discussed with you or with Eric Schutt and Katie Plona:

1. The Elections Board has not yet promulgated any rules governing the appointment, training and service of so-called "roving" special registration deputies as required by s. 6.26 (3), stats., and it appears that none are proposed at this time. Therefore, the tenure of a special registration deputy, both currently and under the draft, is indefinite. If the board promulgates a rule requiring deputies to receive training at some minimum prescribed interval, the rule would have the effect of limiting the tenure of deputies because that tenure would automatically terminate if a deputy failed, at any interval, to meet the minimum training requirement.

2. Per instructions of Eric Schutt and Katie Plona, this redraft adds a requirement for the Elections Board and municipal clerks and boards of election commissioners to keep a current record of the names and addresses of individuals who they appoint as "roving" special registration deputies under s. 6.26, stats. See proposed s. 6.26 (2) (cm), stats.

3. I have deleted the delayed special effective date for requirements to inform prisoners, parolees, and probationers of their voting rights under proposed ss. 302.117, 973.09 (4m), and 973.176 (2), stats. Under this draft, the effective date of these provisions will be the same as for other provisions of the draft — July 1, 2006.

4. Eric Schutt and Katie Plona asked that I review the drafter's note to the /1 draft to identify the items that are still applicable to this draft, especially those that might be easily addressed. You and I reviewed these items with Russ Whitesel.

The third point under Item #10 (Audit of registrations taken by "roving" special registration deputies); Item #11 (Compliance with HAVA voter identification requirements); and Item #18 (Delayed effective date) have been addressed in this redraft. All the other items are not addressed in this draft.

Some of the items concern the workability of the draft and if not addressed at this point will eventually require corrective legislation. Of those, the most significant are #3

(Counting of ballots at the spring election after elected officers take office); #4 (Decreasing the time permitted for mailing and return of absentee ballots); #8 (Use of self-created and nonexpiring documents as voting identification); #11 (Treatment of HAVA citizenship question on voter registration forms); and #15 (Use of alternate absentee ballot canvassing procedure).

Less significant though still problematic items include #2 (Allowance of sufficient time for clerks to send absentee ballots to alternate addresses); #6 (Registration at addresses that differ from voting addresses); #9 (Writing multiple checks to obtain copies of registration lists); #12 (Objection from home or facility owners to posting of notices or entry of observers) and #14 (Coordination of municipal canvassing reporting deadline with county canvassing deadline).

Item #5 relates to a constitutional issue that potentially could undercut the provisions of the draft that accord different treatment to the ballots of military and indefinitely confined electors.

Other items are sufficiently minor that it would probably be possible to address them at this point if you wish. They are #1 (Elections Administration Council advice regarding procurement of ballots and materials, in addition to election apparatus, ballot forms and supplies); #7 (DOT information to Elections Board regarding surrendered drivers' licenses; entry of drivers' license information on a list separate from the registration list); #10 (Clarifying who has the responsibility to perform on-site voter registration audits and extension of auditing procedures contained in the draft to duplicate voting audits); #13 (Designation of clerks' employees or police officers to close polling place lines); #16 (Posting of total number of outstanding absentee ballots on election night); and #17 (Required interval for notification of county clerks of ballot questions; application of notification requirements to nonschool special purpose districts).

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